

The Agua Hedionda South Shore Specific Plan Initiative

Celia Brewer, City Attorney

Gary Barberio, Assistant City Manager

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Legal Overview

- California Constitution
- California Elections Code
- Initiative vs. CEQA process
- Council authority

California Constitution

- 1911 amendment granting the “power of initiative”
- Applicable to local government
- Form of direct democracy to be safeguarded

California Elections Code

- Establishes procedures for exercising right of initiative
- Exclusive procedures
- Extremely prescriptive

Section 9203

true and impartial

Initiative Measure to be
Submitted Directly to the
Voters

9203. (a) Any person who is interested in any proposed measure shall file a copy of the proposed measure with the elections official with a request that a ballot title and summary be prepared. This request shall be accompanied by the address of the person proposing the measure. The elections official shall immediately transmit a copy of the proposed measure to the city attorney. Within 15 days after the proposed measure is filed, the city attorney shall provide and the city elections official a ballot title for and summary of the proposed measure. The ballot title may differ from any other proposed measure and shall express in 500 words or less the purpose of the proposed measure. In providing the ballot title, the city attorney shall give a true and impartial statement of the purpose of the proposed measure in such language that the ballot title shall neither be an argument, nor be likely to create prejudice, for or against the proposed measure.

The elections official shall furnish a copy of the ballot title and summary to the person filing the proposed measure. The person proposing the measure shall, prior to its circulation, place the title and summary across the top of each page of the petition on which signatures are to appear, in roman boldface type not smaller than 12 point. The ballot title prepared by the city attorney. The text of the title and summary shall be printed in type not smaller than 8 point. The title and summary of the proposed measure shall be in substantially the following form:

Initiative Measure to be Submitted Directly to the
Voters

The city attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the city attorney. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

Petition

Commercial: Retail development is proposed on 26.7 acres (approximately 15% of the Specific Plan area) of a 48.30 acre site designated "Travel/Recreation Commercial." The Specific Plan allows up to 585,000 square feet of commercial uses in an outdoor shopping, dining and entertainment promenade.

[illegible]

Section 9214

(a) Adopt the ordinance,
without alteration ...

(b) Immediately order
a special election

9214. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county elections official to the Secretary of State pursuant to Section 2187, effective at the time the notice published in Section 9202 was published, or, in a city with 1,000 or fewer registered voters, by 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall do one of the following:

(a) Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.

(b) Immediately order a special election, to be held pursuant to subdivision (a) of Section 1405, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

(c) Order a report pursuant to Section 9212 at the regular meeting at which the certification of the petition is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

Initiative Process vs. CEQA

- Tuolumne Jobs and Small Business Alliance v. Superior Court – August 2014
 - 9212 report exclusive means for assessing potential environmental impacts
 - CEQA inconsistent with timelines in initiative process
 - Legislature aware of Elections Code before passing CEQA

Initiative Process vs. CEQA

- Direct adoption without CEQA
 - “Direct adoption has been available to local governments from the outset of legislation by initiative”
 - “... voters who amended the Constitution intended to empower local governments to enact a qualified initiative immediately without the need for an election and its attendant delay and cost.”

Council Authority

- City, as an entity, may not spend public resources to advocate for or against
- Council members act in “legislative capacity”
- Political Reform Act
 - No conflicts exist

Overview

- Initiative process
- Property background and history
- Proposed Specific Plan
- “9212 report”
- Council consideration

California Elections Code

1. Approve initiative without alteration
2. Submit the initiative to the voters (special election)
3. Further study findings of 9212 report for up to 30 additional days, then decide within 10 days

Citizen Led Initiative Process

- Notice of Intent (May 12, 2015)
- Request “9212 report” (May 19, 2015)
- Ballot Title and Summary (May 26, 2015)
- Publish in newspaper and file affidavit (May 28, 29)
- Collect petition signatures (May 29 – July 7)

Citizen Led Initiative Process

- Submit signed petition to City Clerk (July 8, 2015)
- Complete 9212 report (Aug. 7, 2015)
- Registrar of Voters verification (Aug. 13, 2015)
- Certificate of Sufficiency (Aug. 18, 2015)
- Council action (Aug. 25, 2015)



Property History

- Owned by SDG&E
- Leased for farming uses
- Western 48.3 acres visitor-serving commercial since 1982

Property History

- 1995 Growth Management Program “Zone 13 Local Facilities Management Plan”
 - 463,600 sq ft of visitor-serving commercial
 - All Growth Management Program facilities planned and sized accordingly





Proposition D

- Passed by voters in 2006
- Preserved open space, but no provision for public access or maintenance
- Preserved strawberry fields as long as “financially feasible” for land owner
- Did not affect existing 48.3 acres of visitor-serving commercial property





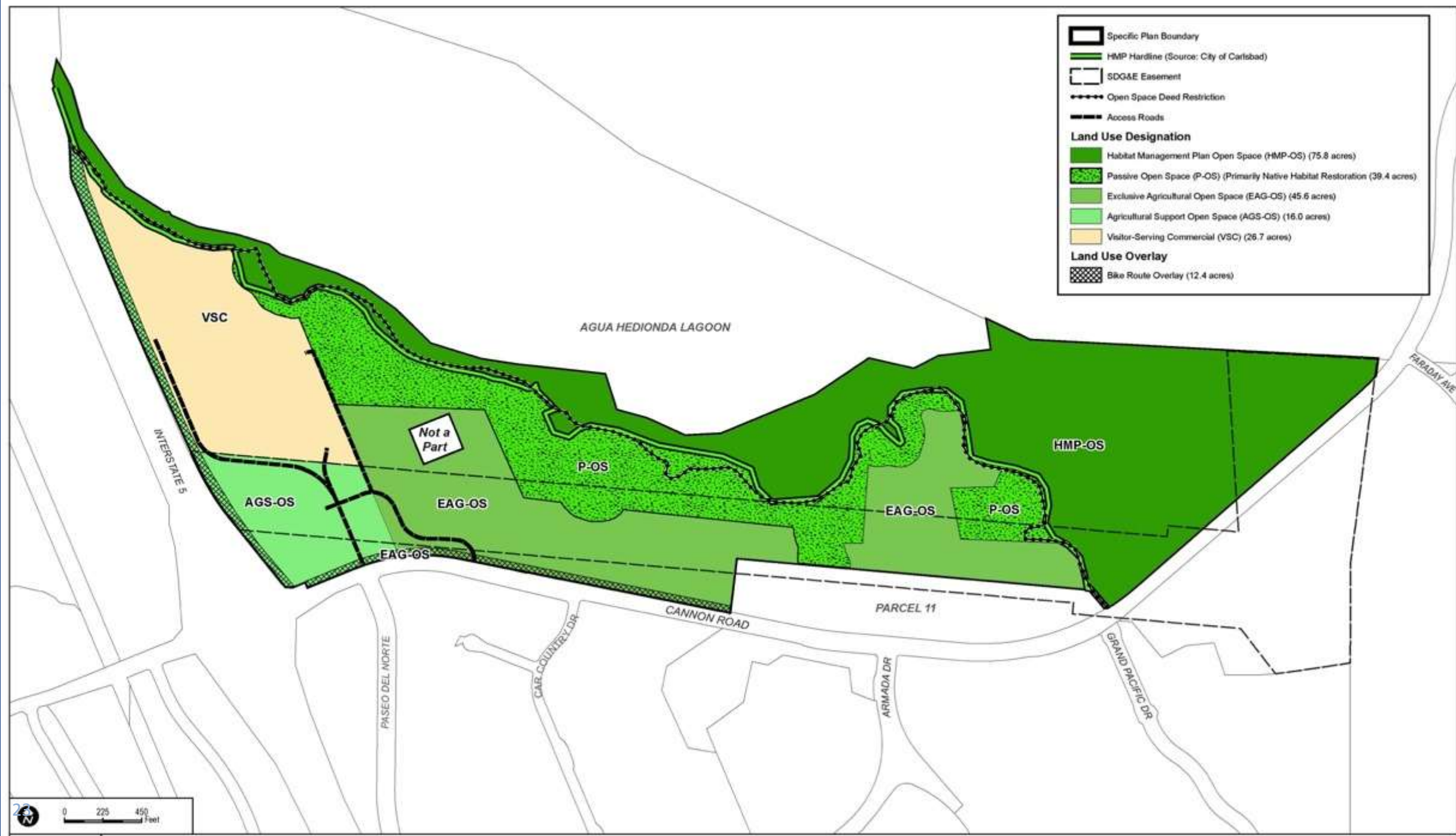
The Agua Hedionda South Shore Specific Plan

- Approximately 203.4 acres of land
 - 26.7 acres (15%) allows for up to 585,000 square feet of new shopping, dining, entertainment uses
 - 176.4 acres (85%) for open space, including farming, passive recreation, public access trails, habitat









Specific Plan Boundary

HMP Hardline (Source: City of Carlsbad)

SDG&E Easement

Open Space Deed Restriction

Access Roads

Land Use Designation

- Habitat Management Plan Open Space (HMP-OS) (75.8 acres)
- Passive Open Space (P-OS) (Primarily Native Habitat Restoration) (39.4 acres)
- Exclusive Agricultural Open Space (EAG-OS) (45.6 acres)
- Agricultural Support Open Space (AGS-OS) (16.0 acres)
- Visitor-Serving Commercial (VSC) (26.7 acres)

Land Use Overlay

- Bike Route Overlay (12.4 acres)

“Plan-Level” Document

- Establishes land use and regulatory framework for future site development plan
- Not at the project level
 - Engineering, architecture plans to follow

Voluntary Measures

- Plan based on 3 ½ years of public input
- Community meetings, tours
- Developing about half of acres allowed
 - Rest converted to open space
- Comprehensive, CEQA-like environmental analysis
 - Voluntarily provided



Voluntary Measures

- \$10 million to 16.5 million in improvements to/maintenance of open space
 - Trails, picnic areas, look outs
- Habitat management
- Ensuring continued agriculture
- Protected and funded in perpetuity



9212 Report



Elections Code Section 9212 Report
on the
Agua Hedionda South Shore Specific Plan for
85% Open Space and 15% Retail AH-SP Initiative

August 7, 2015

9212 Report

- Typically requested when Certificate of Sufficiency is presented to City Council
- 30 days from Certificate of Sufficiency to presentation of report
- Requested May 19 to allow more thorough review
- Completed Aug. 7



California Elections Code 9212

Allows City Council to request a report (9212 Report) examining impacts such as:

1. Fiscal Impact
2. Internal consistency of the city's general and specific plans
3. Land use, local and regional housing needs
4. Funding for infrastructure of all types
5. Business & employment attraction and retention
6. Use of vacant parcels
7. Agricultural lands, open space, traffic, developed areas
8. Other areas as determined by City Council

Environmental Analysis Report

- Aesthetics
- Ag and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Energy
- Hazards and Hazardous Materials
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Fire and Police Protection
- Schools
- Libraries
- Hydrology
- Water Quality
- Parks and Recreation
- Traffic and Circulation
- Water and Sewer Service
- Solid Waste
- Socioeconomic Effects
- Cumulative Effects



Staff Approach to 9212 Report

- Does the plan meet city standards?
- Economic/fiscal impacts
- Environmental impacts
- Staff analysis
- Third party peer reviews



9212 Report Findings

- Plan's environmental analysis is similar to other large projects
 - “Environmental Protection Features”
- Plan will provide significant economic benefits
- Plan largely meets city standards



Growth Management

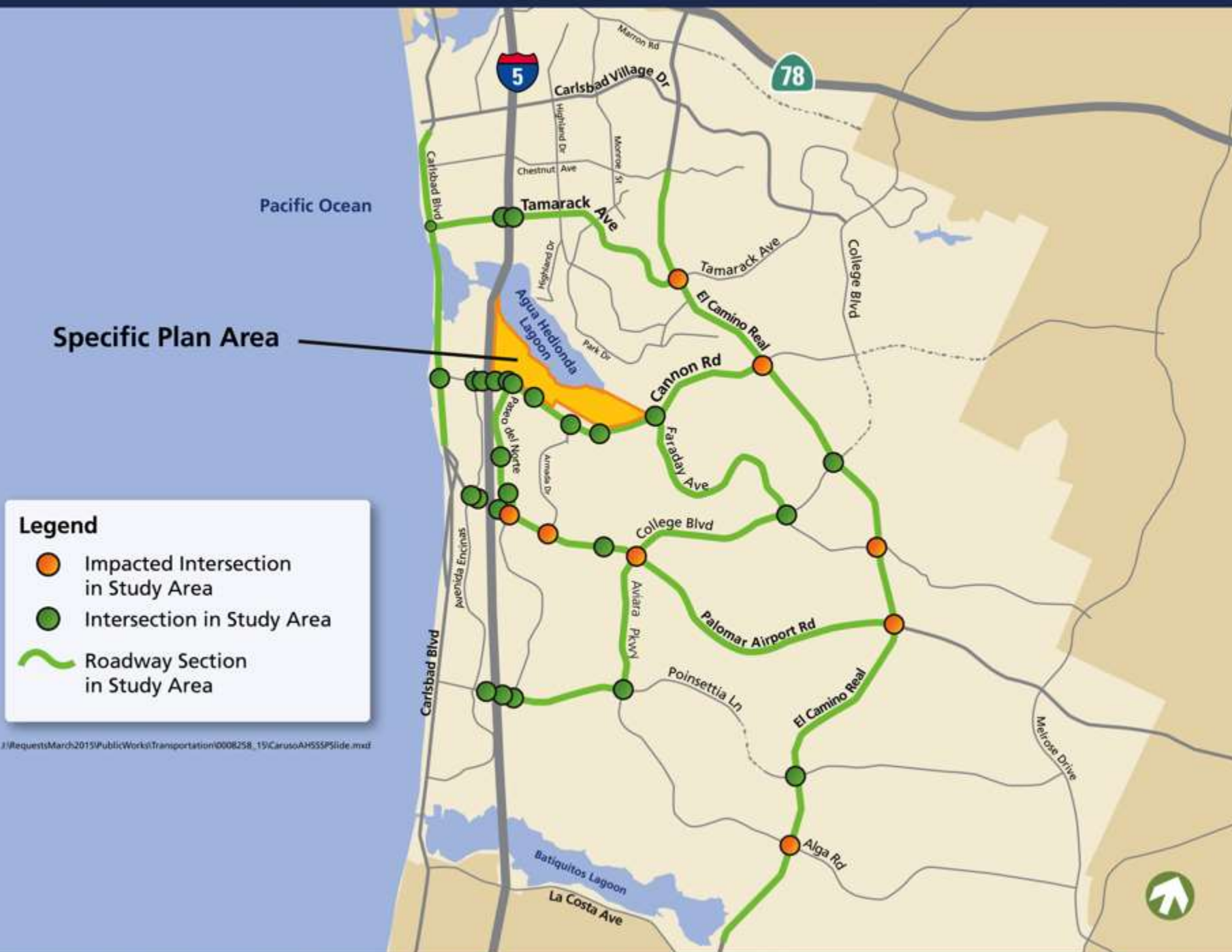
- Passed by voters in 1986
- Strict requirements for new development
- Protects quality of life
- The plan complies with, exceeds or will not impact 10 out of 11 Growth Management Program standards



Traffic

- 32 roadway segments
- 34 intersections
- 3 scenarios
 - Existing conditions
 - Year 2019 (opening year)
 - Year 2035 (long range)





Traffic

- All 32 road segments meet growth management standards in all 3 scenarios
- Intersections
 - All meet standard today
 - All forecasted to meet standard in 2019
 - 8 forecasted to fall short of standard in 2035

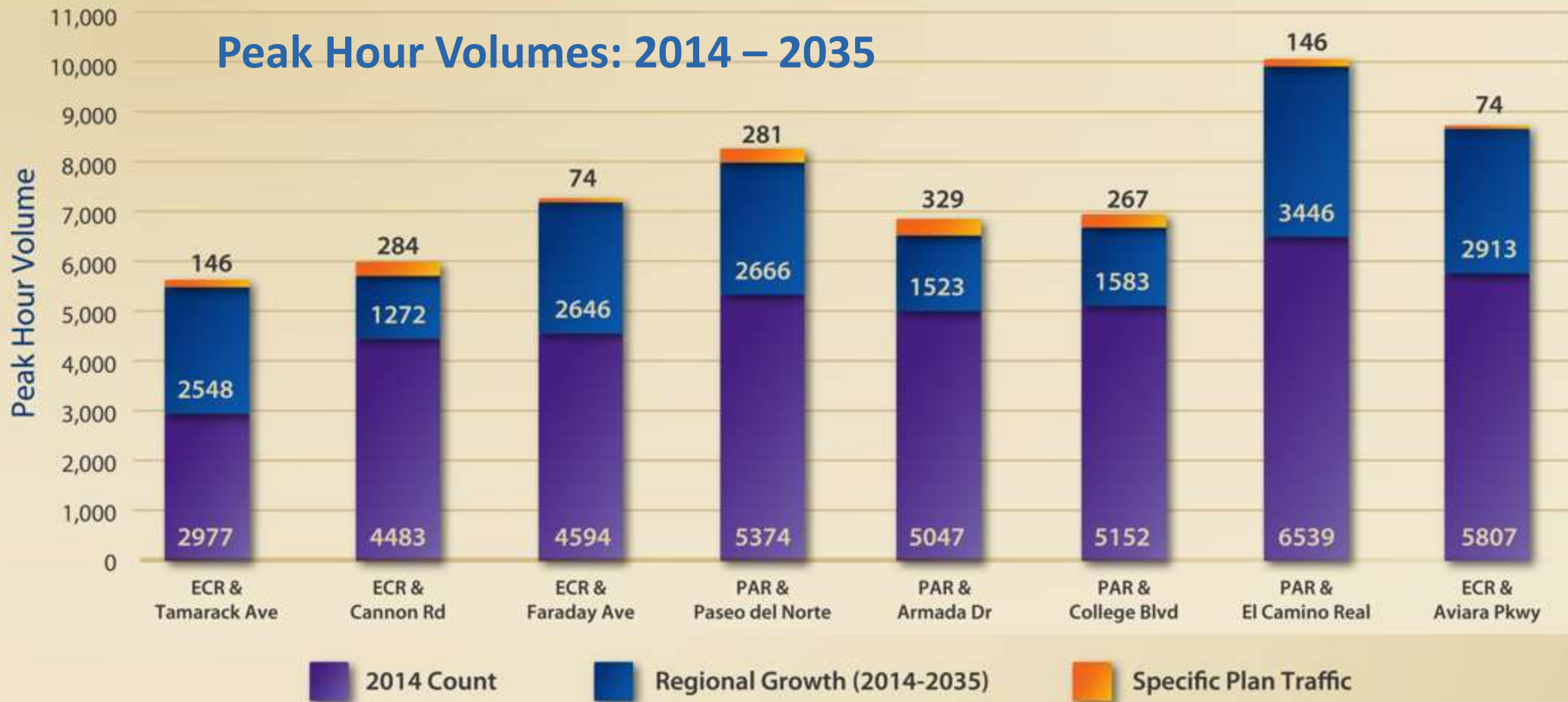


2035 Traffic

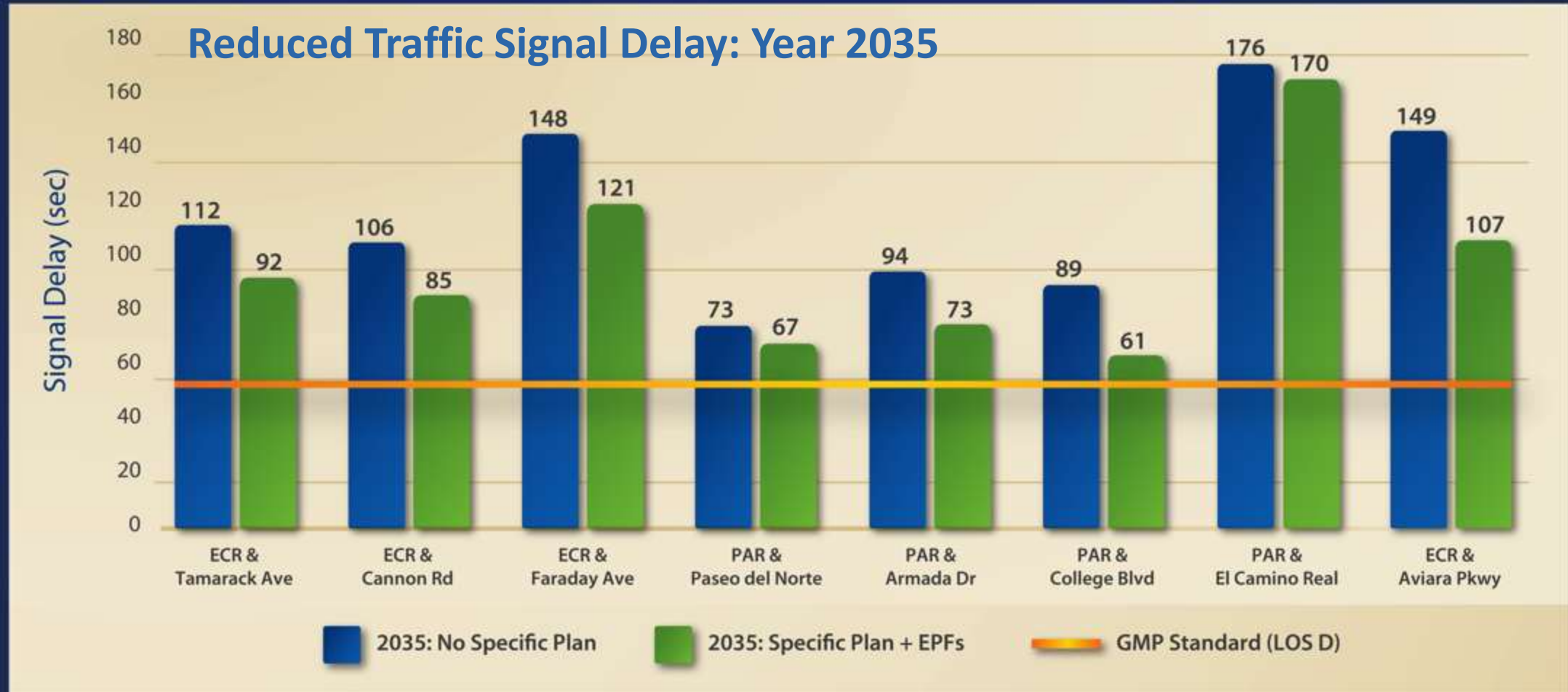
- Won't meet Growth Management Program standard with or without plan
- Regional growth, not Carlsbad growth
- Traffic would be better with plan than no plan
 - Plan improvements to roads and signals



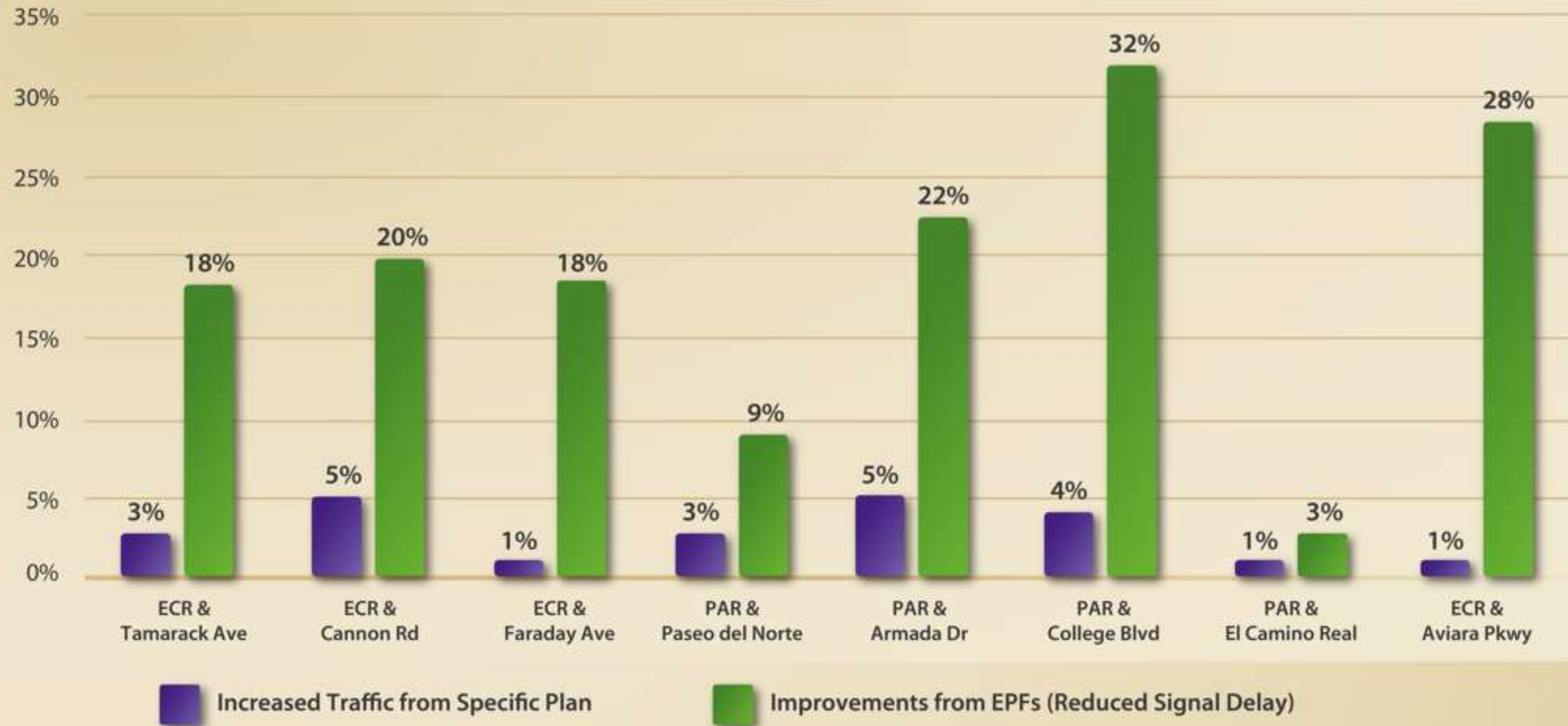
Regional Traffic Growth at Intersections



Benefits of Environmental Protection Features



Increased Traffic vs. Reduced Signal Delay



Agua Hedionda Specific Plan Area Site Access - Proposed



Agua Hedionda Specific Plan Area Site Access - Proposed



Agua Hedionda Specific Plan Area Site Access - Proposed



Estimated Traffic Impact Fees

- District 3 Bridge & Thoroughfare Fee: \$5.9 million
- Citywide Traffic Impact Fee (TIF): \$3.6 million



City Planned Projects

- El Camino Real widening (TIF/Transnet)
 - Widen ECR from 4 lanes to 6 lanes between Tamarack Avenue and Chestnut Avenue
- El Camino Real/Cannon Road (TIF)
 - Widen bridge to add third northbound lane on El Camino Real



City Planned Projects

- Aviara/Alga/El Camino Real (TIF)
 - Add n/b right turn lane
- Palomar Airport Road/Paseo del Norte (gas tax)
 - Add e/b right turn lane and extend left turn pocket on PAR (TIF)
- PAR/College
 - Add second s/b thru lane



Additional Traffic Improvements

- ECR/Tamarack (3%, will front cost of improvements at \$100,000)
- ECR/Faraday (1%, will front cost of improvements at \$50,000)
- PAR/Paseo del Norte (4%, will front cost of improvements at \$75,000)
- PAR/Armada (5%, will front cost of improvements at \$50,000)
- Adaptive Signal Program (\$140,000)

Fiscal/Economic Impacts

- Conservative staff estimate; less than projected by proponents
- At least \$2,575,000 net annual increase in ongoing general fund revenues
- 2,298 to 2,440 FTE jobs ongoing operations
- Does not include tourism-related revenue or jobs



Environmental Analysis

- CEQA level analysis
- Meets standards
- Overrides typical of large projects
- Plan not a project
 - Some issues are addressed later in the process



Next Steps

- If approved by Council
 - Goes to Coastal Commission
- If a special election is called
 - Registrar has 88 to 103 days to schedule a special election
 - If passed, goes to Coastal Commission

Council Actions

1. Approve initiative without alteration
2. Submit the initiative to the voters (special election)
3. Further study findings of 9212 report for up to 30 additional days, then decide within 10 days

Questions

Major Projects Approved Without Public Vote

- La Costa Town Square
- Carlsbad Company Stores
- Westfield Carlsbad
- The Forum
- Quarry Creek Master Plan
- Robertson Ranch Master Plan
- Desalination Project
- New power plant
- Ponto Beachfront Plan
- Calavera Hills Master Plan
- Bressi Ranch Master Plan
- Villages of La Costa Master Plan
- Palomar Forum, Raceway & Oaks North Industrial